

COPY

Appl No: 09/339,222
Attorney Docket: 1982-0135P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: NOGUCHI et al. Conf.: 2334
Appl No: 09/339,222 Art Unit: 2697
Filed: June 24, 1999 Examiner: M. Vida
For: IMAGE CORRECTION METHOD, IMAGE CORRECTION
DEVICE, AND RECORDING MEDIUM

REQUEST FOR RESENDING OF FINAL OFFICE ACTION DUE TO NON-RECEIPT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 5, 2003

Sir:

In reply to the Examiner's telephone contact on December 4, 2003 to Applicants' representative, following remarks are respectfully submitted in connection with the above-identified application.

OFFICE ACTION NOT RECEIVED

Applicants thank the Examiner for the contact made to Applicants' representative on December 4, 2003. In the conversation with the representative, the Examiner indicated that a Final Office Action was sent out on June 5, 2003.

Applicants' representative acted with diligence to investigate the situation. Search of the representative's

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records yielded no information indicating receipt of any Final Office Action dated June 5, 2003 in connection with the above-identified application.

The fact that the Final Office Action of June 5, 2003 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP is evidenced by Exhibits A and B attached hereto:

- **Exhibit A** is a copy of the front page of the file jacket for Appl. No. 09/339,222 (which corresponds to Attorney Docket No. 1982-0135P). It is the policy in our office to record all information regarding Office Actions and responses on the front page of the file jacket. It is noted that there is no entry for the Final Office Action dated June 5, 2003 on the front page of the file jacket of the above-referenced application; and
- **Exhibit B** is a copy of the computer-generated docket record for Appl. No. 09/339,222 (which corresponds to Attorney Docket No. 1982-0135P). It is the policy in our office to docket all due dates for Office Actions received from the USPTO into the docket record for each application. It is noted that there is no entry for responding to an Office

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Action by the due date of September 5, 2003 in the docket record for Appl. No. 09/339,222.

REQUEST FOR NEW OFFICE ACTION AND DATE

In view of the above-described facts, it is respectfully submitted that the non-receipt of the Final Office Action was due solely to problems with mailing of the Final Office Action since the Final Office Action dated June 5, 2005 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP.

Since the above-mentioned Final Office Action was never received in the offices of the undersigned, it is respectfully requested that the Final Office Action be resent and the period of reply be reset.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

In the event that the request is not considered by December 5, 2003, and the Application is considered to be abandoned, then please consider this request as a "Petition to Withdraw Holding

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of Abandonment" filed under 37 C.F.R. 1.181. See M.P.E.P. 711.03(c).

It is clear that an allegation that the Office Action was never received may be considered in a petition to withdraw the holding of abandonment. M.P.E.P. further states, "If adequately supported, the Office may grant the petition to withdraw holding of abandonment and remail the Office action." *Emphasis added; See M.P.E.P. 711.03(c), section II (page 700-155, Feb. 2003 revision).*

In this instance, it is clear that the non-receipt of the Final Office Action is adequately supported as evidenced by the attached exhibits. Therefore, it is respectfully requested that the petition to withdraw holding be granted and the Final Office Action be remailed and the period of reply be reset.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP

By:  #39,491

+, D. Richard Anderson
Reg. No. 40,439

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DRA/HNS/kmr
1982-0135P

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Attachment(s):

Exhibit A - Copy of the front page of the file jacket for U.S. Application No. 09/339,222.

Exhibit B - Copy of the computer-generated record for U.S. Application No. 09/339,222.